



# PUBLIC NOTICE

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**WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES CHANGES TO THE UNIVERSAL LICENSING SYSTEM (ULS) TO ACCOMMODATE THE BROADBAND RADIO SERVICE AND EDUCATIONAL BROADBAND SERVICE AND REMINDS LICENSEES THAT USE OF ULS FORMS AND ELECTRONIC FILING FOR THESE SERVICES BECOME MANDATORY ON JULY 11, 2005.**

By this Public Notice, the Wireless Telecommunications Bureau (WTB or Bureau) announces changes to the Commission's Universal Licensing System (ULS) to implement the Commission's adoption of geographic licensing of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS).<sup>1</sup> These changes will be activated on July 11, 2005. Below the Bureau explains how these changes will affect the licenses and pending applications for these services, currently in ULS. Once conversion is completed, licensees are encouraged to view their information on ULS through application and license search to ensure that information regarding their licensed and proposed facilities was converted correctly.<sup>2</sup> In addition, the Bureau takes this opportunity to remind licensees that use of ULS forms and electronic filing for these services will become mandatory on that date.<sup>3</sup> Applications filed on correspondence or old forms will no longer be accepted and, except for applications for Special Temporary Authority, manually filed BRS and EBS applications will be dismissed.<sup>4</sup>

## I. Background

On June 10, 2004, the Commission adopted a *Report and Order* that transformed the rules governing the former Multipoint Distribution Service (MDS)<sup>5</sup> and Instructional Television Fixed Service (ITFS) in the

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<sup>1</sup> In a *Report and Order* released July 29, 2004 (adopted June 10, 2004) the Commission adopted rules to allow for the geographic licensing of these services. See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *et al.*; WT Docket No. 03-66, *et al.*, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165 (2004) (*BRS/EBS R&O & FNPRM*).

<sup>2</sup> ULS application and license search are available at <http://wireless.fcc.gov/uls>.

<sup>3</sup> *BRS/EBS R&O & FNPRM*, 19 FCC Rcd at 14262 ¶ 260 (the Commission adopted a six-month transition period after the effective date of the rules.)

<sup>4</sup> Certain types of applications can not be filed electronically. Manually filed applications for these purposes will be accepted. See discussion of applications for New geographic licenses and Special Temporary Authority at 4, *infra*.

<sup>5</sup> "MDS" refers herein to both Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) licenses.

2495-2690 MHz band.<sup>6</sup> These rules, which became effective on January 10, 2005, provide greater flexibility and a more functional band plan for licensees.

In *BRS/EBS R&O and FNPRM*, the FCC takes a number of important steps to restructure the 2495-2690 MHz band and facilitate more efficient use of the spectrum. First, it creates a new band plan for 2495-2690 MHz, and creates distinct band segments for high power operations, such as one-way video transmission, and low power operations, such as two-way fixed and mobile broadband applications. It also expands the original MDS-ITFS band by adding to it five megahertz of additional spectrum from below 2500 MHz, which increases the total size of the band to 194 megahertz. This will provide room for the future relocation of MDS Channels 1 and 2, which are presently located in the 2.1 GHz band. In order to reflect these new opportunities for providing broadband service, the *BRS/EBS R&O and FNPRM* renames the MDS service as BRS, and renames the ITFS service as EBS.

The *BRS/EBS R&O and FNPRM* establishes simpler and more flexible rules for licensees, including geographic area licensing and the ability to employ the technology of their choice. For EBS and site-based BRS authorizations, the geographic service area (GSA) generally consists of the station's 35-mile protected service area (PSA). In those instances where two stations have overlapping PSA's, the rules use a "splitting a football" approach to divide the overlap area between the licensees. For BRS Basic Trading Area (BTA) authorization holders, the GSA consists of those portions of the BTA not occupied by the GSA's of other stations. Licensees may, in most cases, modify their facilities, consistent with the new technical rules, without prior Commission approval.

With geographic area licensing, licensees may also add facilities (such as hubs and boosters) within their GSA without prior Commission approval, so long as the facilities comply with the technical rules. Licensees must file applications and be granted specific authorization for individual facilities within their GSA's if: (1) international agreements require coordination; (2) submission of an environmental assessment is required; or (3) the station would affect the radio quiet zones.<sup>7</sup> In addition, the new rules allow for spectrum leasing under the FCC's secondary market rules,<sup>8</sup> but grandfather all existing leasing arrangements between MDS and ITFS licensees. This *Public Notice* provides information on the filing requirements for geographic licensing and spectrum leasing.<sup>9</sup>

## II. License Conversion

On July 11, 2005, BRS and EBS licenses will be converted to geographic licenses. Once conversion is completed, licensees are encouraged to view their information on ULS through license search at <http://wireless.fcc.gov/uls> to ensure that their facilities were converted correctly. New licenses will not be issued for converted stations. In order to complete the conversion of licenses from the current site-based licensing structure to a geographic licensing structure the following changes will occur:

- Active BRS and EBS site specific licenses will be converted to geographic licenses. The new geographic licenses will have the radio service code BR for BRS and ED for EBS.
  - Any BRS or EBS main station license listed on ULS with a protected service area (PSA) based on a 35 mile radius, will be converted to a geographic license with a P35 geographic service area GSA based on the PSA coordinates listed on the license. The GSA for these licenses generally consists of the station's 35-mile PSA. In those instances

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<sup>6</sup> *BRS/EBS R&O & FNPRM*, 19 FCC Rcd at 14165.

<sup>7</sup> See 47 C.F.R. §§ 27.1207(b), 27.1209(b).

<sup>8</sup> 47 C.F.R. Part 1, Subpart X.

<sup>9</sup> See discussion of modification and lease application filing at 4-5, *infra*.

where two stations have overlapping PSA's, the GSA may be reduced due to the "splitting a football" approach used to divide the overlap area between the licensees.<sup>10</sup> ULS will not reflect any GSA modification based on service area overlap. The new geographic license will list the channels authorized by the main station license, but no other technical information will be converted.

- BRS auctioned geographic BTA licenses<sup>11</sup> and partitioned licenses will also be converted to the new radio service codes. Since BTA licenses do not currently contain any technical information, BRS frequencies will be added to the new GSA license.<sup>12</sup> The geographic service area of these licenses will consist of those portions of the BTA not occupied by the GSA's of other stations. The new geographic BTA license will not indicate what, if any, portions of the BTA are occupied by the GSA's of other stations.
- The technical information for any main, booster or hub station that meets one of the three criteria that requires a specific license will be added to the associated geographic license as site-specific technical data. Site-specific technical data will not be listed on the printed license, but can be viewed on the database using ULS license search.
- After conversion to geographic licenses is complete, site-based licenses containing the MD and VX radio service codes will be moved to the ULS archive. ULS license search will only retrieve BRS and EBS geographic licenses with the BR and ED radio service codes. Archived licenses can be viewed using the ULS Archive Search which is available at <http://wireless.fcc.gov/uls>.
- Construction deadlines and buildout dates will not be listed at the frequency level. These deadlines will be moved to the license level and will not be filled in until the Commission has determined the construction requirement.<sup>13</sup> The database will not store construction build-out information for the individual sites. That information can still be viewed on the archived MD and VX licenses.
- Once converted, these radio services will run through the normal ULS expiration routine and licenses that are more than 60 days past their expiration without a pending renewal will be changed to expired status.

### III. Application Conversion

Applications will be entered into the new ULS environment soon after license conversion. Applications can be viewed using the ULS application search which is available at <http://wireless.fcc.gov/uls>. Applicants will notice the following changes to their applications:

- The Bureau will re-enter all pending applications in these services into ULS with the new BR or ED radio service codes. Pending applications will remain active on ULS with the MD or VX radio service codes until they are re-entered with the new radio service codes.
- Applications will generally keep the same purpose except that applications for a new station that lists an associated call sign will be keyed as a modification to that call sign's new GSA license.<sup>14</sup>

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<sup>10</sup> See 47 C.F.R. § 27.1206(a)(1).

<sup>11</sup> Auctioned geographic license call signs will normally have format BXXX where XXX is the number of the BTA authorized. For example the geographic license for BTA001 has the call sign of B001.

<sup>12</sup> See 47 C.F.R. § 27.5(i)(1).

<sup>13</sup> *BRS/EBS R&O & FNPRM*, 19 FCC Rcd at 14282-14287 ¶¶ 320-332 (the Commission seeks further comment on what performance requirements should be applicable to these services.)

<sup>14</sup> If the associated call sign is a main station with a BTA protected service area, the application will be entered as a modification to add technical information to the associated BTA license that has been converted to a geographic license.

- Applications will retain their original file number and receipt date.
- Previous versions of the application will be retained on ULS with the MD or VX radio service code as an inactive application under the same file number.

#### IV. Application Filing

BRS and EBS licensees are reminded that the use of ULS forms and electronic filing will become mandatory on July 11, 2005.<sup>15</sup> To file electronically all filers will be required to log into ULS License Manager using an FCC Registration Number and CORES password. The ULS License Manager can be accessed through the ULS homepage at <http://wireless.fcc.gov/uls>. Fees for electronically filed applications may be paid online or may be sent to the Federal Communications Commission, Wireless Bureau ELT, P.O. Box 358994, Pittsburgh, PA 15251-5245. An FCC Form 159 is required if payment is sent by mail. Applications submitted as correspondence and the old forms previously used for these services will no longer be accepted.<sup>16</sup> Except for applications for Special Temporary Authority, which must be filed manually using the July 2005 FCC Form 601, manually filed applications in these services will be dismissed. Applications that are not accepted or dismissed will need to be re-filed electronically with a new fee.

In addition, BRS and EBS applications will be subject to the Commission's uniform rule for dismissal or return of defective applications in the Wireless Services.<sup>17</sup> Pursuant to the uniform rule adopted in the *ULS R&O*,<sup>18</sup> the Commission has the discretion to return applications for correction or minor filing errors, but is also authorized to dismiss any incomplete or defective application without prejudice.<sup>19</sup> In this connection, regardless of the manner in which applicants submit their applications, ULS will automatically dismiss applications that are unsigned, untimely, or not fee-compliant.<sup>20</sup> WTB, however, has announced specific procedures for complying with the Commission's uniform policy.<sup>21</sup> WTB has concluded that "[g]enerally, timely filed renewal applications and construction notifications that are otherwise defective will be returned to the applicants for correction, rather than dismissed by the Bureau."<sup>22</sup> Nonetheless, the Bureau clarified "that renewal applications and construction notifications

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<sup>15</sup> See note 3, *supra* and accompanying text.

<sup>16</sup> The MDS and ITFS application forms are FCC Forms 304, 304A, 305, 306, 330, 330A, 330R, 331, 405, 430, and 701.

<sup>17</sup> *BRS/EBS R&O & FNPRM*, 19 FCC Rcd at 14261 ¶ 253.

<sup>18</sup> Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order*, 13 FCC Rcd at 21027 (1998) (*ULS R&O*); See also 47 C.F.R. § 1.934.

<sup>19</sup> *ULS R&O*, 13 FCC Rcd at 21068 ¶ 90.

<sup>20</sup> See, e.g., *id.*

<sup>21</sup> See Wireless Telecommunications Bureau Clarifies Unified Policy for Dismissing and Returning Applications, *Public Notice*, 17 FCC Rcd 30 (WTB 2001) (*Unified Dismissal and Return PN*); Wireless Telecommunications Bureau Revises and Begins Phased Implementation of its Unified Policy for Reviewing License Applications and Pleadings, *Public Notice*, 14 FCC Rcd 11182, 11185 (WTB 1999); Wireless Telecommunications Bureau Announces Unified Policy for Dismissing and Returning Applications and Dismissing Pleadings Associated with Applications, *Public Notice*, 14 FCC Rcd 5499 (WTB 1999).

<sup>22</sup> *Unified Dismissal and Return PN*, 17 FCC Rcd at 30.

that fail to comply with the applicable fee and signature requirements will be dismissed by the Bureau as defective rather than returned to the applicants for correction, even if timely filed.”<sup>23</sup>

As of July 11, 2005 applicants (except for applicants for Special Temporary Authority) are required to file electronically. Previously, ULS forms and online filing could be used for certain purposes.<sup>24</sup> As of July 11, 2005, the following ULS forms apply to BRS and EBS for all purposes:

**FCC Form 601**, Application for Wireless Telecommunications Bureau Radio Service;  
**FCC Form 602**, FCC Ownership Disclosure Information for the Wireless Telecommunications Services;  
**FCC Form 603**, FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control;  
**FCC Form 603T**, FCC Wireless Telecommunications Bureau Application or Notification for Spectrum Leasing Arrangement.

The ULS forms and online filing system have undergone changes to apply the new rules and accommodate geographic licensing in these services. The following describes the changes that will be on the July 2005 edition of the FCC Form 601 and provides useful information to assist applicants:

- New questions regarding Cable Cross Ownership, Programming Requirements and Interference Protection will be added to the FCC Form 601, Main Form and online filing for BRS and EBS applicants. Once these questions are added, there is no need to attach additional certifications pertaining to these issues to FCC Form 601 filings. Note that some responses to FCC Form 601, Main Form questions, such as the Waiver or Cable Cross Ownership questions, may require that additional information be provided as an attachment to the application.
- Questions have been added to the FCC Form 601, Schedule D, and a new Schedule E has been added to the FCC Form 601. As a result, the FCC Form 601 and ULS online filing can be used to modify BRS and EBS geographic licenses to:
  - Add or change the channels licensed on a geographic license. This includes applications to change from the old to the new channel band plan. A modification application that simply changes from the old to the new channel band plan without changing the actual channel number is considered a minor modification.<sup>25</sup> An application fee is not required for BRS minor modification applications.
  - Add or modify site specific technical data for facilities meeting one of the 3 criteria that requires a specific license.<sup>26</sup> Applicants can include multiple locations on a single application.
- An FCC Form 603 will be available for filing an application to partition and disaggregate geographic licenses in these services. A BTA license or partitioned BTA license may be partitioned by county or by undefined geographic area. Licenses with a P35 geographic service area can only be partitioned by an undefined geographic area. When partitioning an undefined geographic area, the licensee must enter the coordinates of locations that describe the periphery of

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<sup>23</sup> *Id.* at 32.

<sup>24</sup> See Wireless Telecommunications Bureau to Complete Conversion of MDS, MMDS, and ITFS Services to the Universal Licensing System, February 17, 2004, *Public Notice*, DA 04-392 (WTB rel Feb 17, 2004); Electronic Filing of FCC Form 603 in Universal Licensing System for Broadband Radio Service and Educational Broadband Service is Now Available, *Public Notice*, DA 05-611 (WTB rel Mar 14, 2005).

<sup>25</sup> See 47 C.F.R. §1.929 (classification of filings as major or minor).

<sup>26</sup> See note 7, *supra*.

the geographic area to be partitioned. ULS will accept up to 120 pairs of latitude/longitude coordinates.

- Under the new rules, these services are subject to the FCC's secondary market spectrum leasing rules.<sup>27</sup> Existing leases entered into under the ITFS leasing framework are grandfathered as long as the leases do not materially change.<sup>28</sup> New leases should be applied for using the FCC Form 603T.<sup>29</sup> After conversion of these services, licensees should only list GSA call signs on lease applications. Individual site specific call signs will no longer be listed on ULS or available for leasing. If the entire call sign is leased, licensees only need to list the GSA call sign. They should not list any site-specific information. Licensees should also note the rules regarding lease start and end dates for various types of leases and insure they properly enter this information on the form. Failure to provide this information could delay processing of the lease application. Additional information on spectrum leasing is available at <http://wireless.fcc.gov/licensing/spectrumleasing>.
- At this time, ULS will not accept applications for new geographic licenses or Special Temporary Authority in these radio services. The Commission is not accepting applications for new geographic licenses in these services at this time. Applications for Special Temporary Authority must be filed manually using the July 2005 FCC Form 601.

## V. Further Information

The implementation of enhanced Form 601 filing for BRS/EBS applications requires ULS to be down starting 12:00 PM ET Friday July 8, 2005 through 8:00 AM ET Monday July 11, 2005. The Universal Licensing System (ULS) Online Filing, ULS Application Search and License Search, Ownership Online Filing and Search, Antenna Structure Registration and Search and TOWAIR systems will be unavailable during this time. Electronic Batch File processing will be down from 9:00 PM ET Friday until 6:00 AM ET Monday. During the weekend down time, VECs, COLEMs, Land Mobile and Microwave batch filers will still be able to send and retrieve files. Public Access files will be posted as usual.

For additional information or assistance, go to <http://esupport.fcc.gov>. You may also call the FCC Support Center at (877) 480-3201 (TTY 202-414-1255) and select Option #2, Forms or Licensing Assistance. Hours are from 8:00 a.m. to 7:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls are recorded. For further information concerning licensing procedures for these services, please contact Cheryl Black at (717)338-2617, [Cheryl.Black@fcc.gov](mailto:Cheryl.Black@fcc.gov) or Mary Shultz at (717)338-2656, [Mary.Shultz@fcc.gov](mailto:Mary.Shultz@fcc.gov), Broadband Division, Wireless Telecommunications Bureau.

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<sup>27</sup> 47 C.F.R. Part 1, Subpart X.

<sup>28</sup> *BRS/EBS R&O & FNPRM*, 19 FCC Rcd 14233-14234 at ¶ 180.

<sup>29</sup> For special ULS procedures regarding leasing applications *see* Public Notice, DA 04-252, Released February 2, 2004.